

No. 78-981

Supreme Court, U. S.

FILED

FEB 14 1979

MICHAEL TODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1978

BRUCE and RUTH GRAVES, PETITIONERS

v.

COMMISSIONER OF INTERNAL REVENUE

***ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE SIXTH CIRCUIT***

**MEMORANDUM FOR THE RESPONDENT
IN OPPOSITION**

WADE H. MCCREE, JR.
Solicitor General
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Washington, D.C. 20530

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Petitioners claim that their religious beliefs entitle them to a "war tax credit" of one-half of their federal income tax liability.

The pertinent facts are as follows: Petitioners are members of the Religious Society of Friends (Quakers), and are pacifists. On their joint 1973 income tax return, petitioners claimed a "war tax credit" of \$4,051, representing 50% of their income tax liability of \$8,102. On audit, the Commissioner disallowed their claimed "credit" and determined a deficiency (Pet. App. 2a-3a). The Tax Court upheld the Commissioner's determination (Pet. App. 3a-7a) and the court of appeals affirmed per curiam (Pet. App. 9a-10a).

The courts below correctly rejected petitioners' claim to a "war credit" against their income tax liability. In petitioners' view, the imposition on them of a portion of their income taxes to support military expenditures

violates their First Amendment rights. But the First Amendment guarantee of religious freedom does not absolve petitioners from the obligations imposed on them by otherwise valid legislation. The First Amendment simply provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof * * *."

Contrary to petitioners' assertion (Pet. 8-13), the income tax as applied to them does not violate the Free Exercise Clause. See *Wisconsin v. Yoder*, 406 U.S. 205 (1972); *Sherbert v. Verner*, 374 U.S. 398 (1963); *Braunfeld v. Brown*, 366 U.S. 599 (1961). Permitting individual taxpayers to determine that they need not pay the percentage of the taxes which they deem to be for purposes at odds with their religion would undermine the administration of the revenue laws. *Autenrieth v. Cullen*, 418 F. 2d 586 (9th Cir. 1969), cert. denied, 397 U.S. 1036 (1970). Cf. *United States v. American Friends Service Committee*, 419 U.S. 7, 11 (1974).

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

WADE H. MCCREE, JR.
Solicitor General

FEBRUARY 1979